



(BILLING CODE 3510-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-832]

Pure Magnesium from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results

SUMMARY: On February 5, 2014, the United States Court of Appeals for the Federal Circuit (“CAFC”) affirmed the judgment of the United States Court of International Trade (“CIT”) sustaining the Department of Commerce’s (“the Department”) final results of redetermination pursuant to remand of the 2008-2009 antidumping duty administrative review of pure magnesium from the People’s Republic of China (“PRC”) (“*Remand Redetermination*”).¹ Consistent with the decision of the CAFC in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (CAFC 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *Final Results* and is amending the *Final Results* of the administrative review of pure magnesium from the PRC with respect to the margin assigned to Tianjin Magnesium International Co., Ltd. (“TMI”) covering the period of review (“POR”) May 1, 2008, through April 30, 2009.²

EFFECTIVE DATE: December 1, 2012.

¹ See Final Results Of Redetermination Pursuant To Remand issued by the Department of Commerce, Consol. Ct. No. 11-00006, Slip Op. 12-63 (CIT 2012), dated August 30, 2012.

² See *Pure Magnesium from the People’s Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010); *Amended Final Results of the 2008-2009 Antidumping Duty Administrative Review: Pure Magnesium from the People’s Republic of China*, 76 FR 7813 (February 11, 2011) (collectively, “*Final Results*”).

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4243.

SUPPLEMENTARY INFORMATION: In the *Final Results*, TMI received a calculated margin based upon information it submitted during the review. TMI's margin was 0.80 percent.³ Both TMI and petitioner challenged the *Final Results* with respect to several issues. Upon review, the CIT remanded the *Final Results*, holding that the Department's "decision not to apply total adverse facts available to TMI was not supported by substantial evidence in the record and was not in accord with the law."⁴ On remand, the Department reconsidered its findings and determined to apply total adverse facts available to TMI based upon its submission of falsified documents during the administrative review. The Department assigned TMI an adverse facts available rate of 111.73 percent, thereby replacing the rate of 0.80 percent originally assigned. The CIT sustained the Department's remand results on November 21, 2012, making the effective date of this notice December 1, 2012.⁵ Furthermore, the CAFC recently affirmed the CIT's findings in a non-precedential order.⁶

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision.

The CIT's November 21, 2012 judgment sustaining the Department's remand results with

³ See *Amended Final Results*.

⁴ See *Tianjin Magnesium Int'l v. United States*, 844 F. Supp. 2d 1342, 1344 (CIT May 16, 2012).

⁵ See *Tianjin Magnesium Int'l v. United States*, 878 F. Supp. 2d 1351 (CIT Nov. 21, 2012).

⁶ See *Tianjin Magnesium Int'l v. United States*, 2014 U.S. App. LEXIS 2679 (Fed. Cir. Feb. 5, 2014) (non-precedential).

respect to TMI constitutes a final decision of that court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the most recent period during which the respondent was reviewed.⁷

Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to TMI's margin for the period May 1, 2008 through April 30, 2009. The revised weighted-average dumping margin is as follows:

Exporter	Percent Margin
Tianjin Magnesium International Co., Ltd.	111.73

In the event the CAFC's ruling is not appealed, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by TMI during the POR using the revised assessment rate calculated by the Department in the *Remand Redetermination*.

⁷ See *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 94 (January 2, 2014).

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 16, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

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